

Union Calendar No. 222

98TH CONGRESS
1ST SESSION

H. R. 2755

[Report No. 98-356]

To authorize appropriations for the Federal Communications Commission for fiscal years 1984 and 1985, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 26, 1983

Mr. WIRTH (for himself and Mr. DINGELL) introduced the following bill; which was referred to the Committee on Energy and Commerce

SEPTEMBER 15, 1983

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on April 26, 1983]

A BILL

To authorize appropriations for the Federal Communications Commission for fiscal years 1984 and 1985, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

SHORT TITLE

2 *SECTION 1. This Act may be cited as the “Federal*
3 *Communications Commission Authorization Act of 1983”.*

FEDERAL COMMUNICATIONS COMMISSION

APPROPRIATIONS AUTHORIZATION

6 *SEC. 2. (a) Section 6 of the Communications Act of*
7 *1934 (47 U.S.C. 156) is amended to read as follows:*

“AUTHORIZATION OF APPROPRIATIONS

9 “SEC. 6. There are authorized to be appropriated for the
10 administration of this Act by the Commission \$91,156,000,
11 together with sums as may be necessary for increases result-
12 ing from adjustments in salary, pay, retirement, other em-
13 ployee benefits required by law, and other nondiscretionary
14 costs, for each of the fiscal years 1984 and 1985.”.

15 (b) The amendment made by subsection (a) shall apply
16 with respect to fiscal years beginning after September 30,
17 1983.

INCREASE IN PUBLIC BROADCASTING APPROPRIATIONS

AUTHORIZATION

20 *SEC. 3. Section 396(k)(1)(C) of the Communications*
21 *Act of 1934 (47 U.S.C. 396(k)(1)(C)) is amended by strik-*
22 *ing out “, and \$130,000,000 for each of the fiscal years*
23 *1984, 1985, and 1986.” and inserting in lieu thereof “,*
24 *\$145,000,000 for fiscal year 1984, \$153,000,000 for fiscal*
25 *year 1985, and \$162,000,000 for fiscal year 1986.”.*

1 *FEDERAL COMMUNICATIONS COMMISSION*2 *ADMINISTRATIVE MATTERS*

3 *SEC. 4. (a) Section 316 of the Communications Act of*
4 *1934 (47 U.S.C. 316) is amended—*

5 *(1) in subsection (a), by inserting “(1)” after*
6 *“(a)” and by striking out “and shall have been given*
7 *reasonable opportunity” and all that follows and in-*
8 *serting in lieu thereof “and shall be given reasonable*
9 *opportunity, of at least thirty days, to protest such pro-*
10 *posed order of modification; except that where safety of*
11 *life or property is involved, the Commission may by*
12 *order provide for a shorter period of notice.”;*

13 *(2) by adding at the end of subsection (a) the fol-*
14 *lowing new paragraphs:*

15 *“(2) Any other licensee or permittee who believes its li-*
16 *cense or permit would be modified by the proposed action*
17 *may also protest the proposed action before its effective date.*

18 *“(3) A protest filed pursuant to this subsection shall be*
19 *subject to the requirements of section 309 for petitions to*
20 *deny.”; and*

21 *(3) in subsection (b), by inserting before the*
22 *period at the end thereof the following: “; except that,*
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24 *whether the proposed action would modify the license*
25 *or permit of a person described in subsection (a)(2),*

1 *such burdens shall be as determined by the Commis-*
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3 *(b) Section 503(b)(5) of such Act (47 U.S.C.*
4 *503(b)(5)) is amended by inserting, before the period in the*
5 *second sentence, the following: “or if the person involved is*
6 *transmitting on frequencies assigned for use in a service in*
7 *which individual station operation is authorized by rule pur-*
8 *suant to section 307(e)”.*

9 *FINANCIAL OVERSIGHT OF NATIONAL PUBLIC RADIO BY*
10 *CORPORATION FOR PUBLIC BROADCASTING*

11 *SEC. 5. Section 396(1) of the Communications Act of*
12 *1934 (47 U.S.C. 396(1)) is amended by adding at the end*
13 *thereof the following:*

14 *“(4)(A) Subject to subparagraph (C), the Corporation*
15 *may not distribute to National Public Radio any funds au-*
16 *thorized to be appropriated by this Act unless there is in*
17 *effect a determination by the Corporation that—*

18 *“(i) National Public Radio has adopted and is*
19 *implementing a system of financial controls and proce-*
20 *dures devised in consultation with, and recommended*
21 *by, an independent certified public accountant and de-*
22 *termined by the Comptroller General as sufficient to*
23 *assure that the financial transactions of National*
24 *Public Radio reflect prudent management practices*

1 *and are accounted for in a manner consistent with gen-*
2 *erally accepted accounting principles;*

3 “(ii) *National Public Radio has adopted a budget*
4 *under which reasonably projected expenditures will not*
5 *exceed reasonably projected revenues from all sources*
6 *for any fiscal year in which such funds are distributed*
7 *to National Public Radio; and*

8 “(iii) *financial reporting systems of National*
9 *Public Radio provide the Corporation with continuous*
10 *access to all financial books and records of National*
11 *Public Radio.*

12 “(B) *Not later than fifteen days after the date of the*
13 *enactment of this paragraph, the Corporation shall report to*
14 *the appropriate committees of the Congress on actions taken*
15 *by National Public Radio to meet the conditions described in*
16 *subparagraph (A) and on actions taken by the Corporation*
17 *with respect to the indebtedness of National Public Radio*
18 *related to deficits accumulated before October 1, 1983. The*
19 *Corporation shall certify to such committees when such con-*
20 *ditions have been met.*

21 “(C) *The requirements of subparagraphs (A) and (B)*
22 *shall cease to be effective on and after the date on which the*
23 *Corporation certifies to the appropriate committees of Con-*
24 *gress that all indebtedness of National Public Radio related*

1 *to deficits accumulated before October 1, 1983, has been liq-*
 2 *uidated in full.”.*

3 *CORPORATION FOR PUBLIC BROADCASTING*

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5 *SEC. 6. (a) Section 396(c)(1) of the Communications*
 6 *Act of 1934 (47 U.S.C. 396(c)(1)) is amended—*

7 *(1) in the first sentence, by striking out “, and*
 8 *the President of the Corporation”; and*

9 *(2) by striking out the third sentence.*

10 *(b)(1) Section 396(d)(1) of such Act is amended by in-*
 11 *serting after “annually” the following: “elect one of their*
 12 *members to be Chairman and”.*

13 *(2) The subsection heading for section 396(d) of such*
 14 *Act is amended by striking out “VICE CHAIRMAN” and in-*
 15 *serting in lieu thereof “CHAIRMAN AND VICE CHAIRMAN”.*

16 *(c) Section 396(e)(1) of such Act is amended by striking*
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 18 *man” and inserting in lieu thereof “No officer of the Corpo-*
 19 *ration, other than the Chairman or a Vice Chairman”.*

20 *ADMINISTRATION OF REGIONAL CONCENTRATION RULES*

21 *FOR BROADCAST STATIONS*

22 *SEC. 7. Section 310 of the Communications Act of*
 23 *1934 (47 U.S.C. 310) is amended by adding at the end*
 24 *thereof the following new subsection:*

1 “(e)(1) *In the case of any broadcast station, and any*
 2 *ownership interest therein, which is excluded from the region-*
 3 *al concentration rules by reason of the savings provision for*
 4 *existing facilities provided by the First Report and Order*
 5 *adopted March 9, 1977 (docket No. 20548; 42 Fed. Reg.*
 6 *16145), the exclusion shall not terminate solely by reason of*
 7 *changes made in the technical facilities of the station to im-*
 8 *prove its service.*

9 “(2) *For purposes of this subsection, the term ‘regional*
 10 *concentration rules’ means the provisions of sections 73.35,*
 11 *73.240, and 73.636 of title 47, Code of Federal Regulations*
 12 *(as in effect June 1, 1983), which prohibit any party from*
 13 *directly or indirectly owning, operating, or controlling three*
 14 *broadcast stations in one or several services where any two of*
 15 *such stations are within one hundred miles of the third*
 16 *(measured city-to-city), and where there is a primary service*
 17 *contour overlap of any of the stations”.*

18 CLARIFICATION AND ADMINISTRATION OF SECTION 223

19 SEC. 8. (a) *Section 223 of the Communications Act of*
 20 *1934 (47 U.S.C. 223) is amended by inserting “(a)” before*
 21 *“Whoever” and by adding at the end thereof the following*
 22 *new subsection:*

23 “(b)(1) *Whoever—*

24 *“(A) in the District of Columbia or in interstate*
 25 *or foreign communication, by means of telephone,*

1 *makes (directly or by recording device) any comment,*
2 *request, suggestion, or proposal which is obscene, lewd,*
3 *lascivious, filthy, or indecent, regardless of whether the*
4 *maker of such comment placed the call, or*

5 *“(B) knowingly permits any telephone facility*
6 *under such person’s control to be used for any purpose*
7 *prohibited by subparagraph (A),*

8 *shall be fined not more than \$50,000 or imprisoned not more*
9 *than six months, or both.*

10 *“(2)(A) In addition to the criminal penalties under*
11 *paragraph (1), whoever, in the District of Columbia or in*
12 *interstate or foreign communication, violates paragraph*
13 *(1)(A) or (1)(B) for commercial purposes shall be subject to a*
14 *civil fine of not more than \$50,000 for each violation. For*
15 *purposes of this paragraph, each day of violation shall consti-*
16 *tute a separate violation.*

17 *“(B) A fine under this paragraph may be assessed*
18 *either—*

19 *“(i) by a court, pursuant to a civil action by the*
20 *Commission or any attorney employed by the Commis-*
21 *sion who is designated by the Commission for such*
22 *purpose, or*

23 *“(ii) by the Commission, after appropriate admin-*
24 *istrative proceedings.*

1 “(3)(A) *Either the Attorney General, or the Commis-*
2 *sion or any attorney employed by the Commission who is*
3 *designated by the Commission for such purpose, may bring*
4 *suit in a district court of the United States to enjoin any act*
5 *or practice which allegedly violates paragraph (1)(A) or*
6 *(1)(B).*

7 “(B) *Upon a proper showing that, weighing the equities*
8 *and considering the likelihood of ultimate success, a prelimi-*
9 *nary injunction would be in the public interest, and after*
10 *notice to the defendant, such preliminary injunction may be*
11 *granted. If a full trial on the merits is not scheduled within*
12 *such period (not exceeding twenty days) as may be specified*
13 *by the court after issuance of the preliminary injunction, the*
14 *injunction shall be dissolved by the court.”.*

15 (b) *Section 223(a) of the Communications Act of 1934*
16 *(as redesignated by subsection (a) of this section) is amend-*
17 *ed—*

18 (1) *in paragraph (1), by striking out subpara-*
19 *graph (A) and by redesignating subparagraphs (B),*
20 *(C), and (D) as subparagraphs (A), (B), and (C), re-*
21 *spectively; and*

22 (2) *in paragraph (2), by inserting “facility” after*
23 *“telephone”.*

1 *DIRECTION ON USE OF FUNDS REGARDING SPECTRUM AL-*
2 *LOCATION AND ASSIGNMENTS FOR PUBLIC SAFETY*
3 *PURPOSES*

4 *SEC. 9. (a) Funds authorized to be appropriated under*
5 *section 2 of this Act shall be used by the Federal Communi-*
6 *cations Commission to establish a plan which adequately en-*
7 *sures that the needs of State and local public safety authori-*
8 *ties would be taken into account in making allocations of the*
9 *electromagnetic spectrum. In establishing such a plan the*
10 *Commission shall (1) review the current and future needs of*
11 *such public safety authorities in light of suitable and com-*
12 *mercially available equipment and (2) consider the need for a*
13 *nationwide contiguous frequency allocation for public safety*
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4 *1934 (47 U.S.C. 316) is amended—*

5 *(1) in subsection (a), by inserting “(1)” after*
6 *“(a)” and by striking out “and shall have been given*
7 *reasonable opportunity” and all that follows and in-*
8 *serting in lieu thereof “and shall be given reasonable*
9 *opportunity, of at least thirty days, to protest such pro-*
10 *posed order of modification; except that where safety of*
11 *life or property is involved, the Commission may by*
12 *order provide for a shorter period of notice.”;*

13 *(2) by adding at the end of subsection (a) the fol-*
14 *lowing new paragraphs:*

15 *“(2) Any other licensee or permittee who believes its li-*
16 *cense or permit would be modified by the proposed action*
17 *may also protest the proposed action before its effective date.*

18 *“(3) A protest filed pursuant to this subsection shall be*
19 *subject to the requirements of section 309 for petitions to*
20 *deny.”; and*

21 *(3) in subsection (b), by inserting before the*
22 *period at the end thereof the following: “; except that,*
23 *with respect to any issue that addresses the question of*
24 *whether the proposed action would modify the license*
25 *or permit of a person described in subsection (a)(2),*

1 *such burdens shall be as determined by the Commis-*
2 *sion”.*

3 *(b) Section 503(b)(5) of such Act (47 U.S.C.*
4 *503(b)(5)) is amended by inserting, before the period in the*
5 *second sentence, the following: “or if the person involved is*
6 *transmitting on frequencies assigned for use in a service in*
7 *which individual station operation is authorized by rule pur-*
8 *suant to section 307(e)”.*

9 *FINANCIAL OVERSIGHT OF NATIONAL PUBLIC RADIO BY*
10 *CORPORATION FOR PUBLIC BROADCASTING*

11 *SEC. 5. Section 396(1) of the Communications Act of*
12 *1934 (47 U.S.C. 396(1)) is amended by adding at the end*
13 *thereof the following:*

14 *“(4)(A) Subject to subparagraph (C), the Corporation*
15 *may not distribute to National Public Radio any funds au-*
16 *thorized to be appropriated by this Act unless there is in*
17 *effect a determination by the Corporation that—*

18 *“(i) National Public Radio has adopted and is*
19 *implementing a system of financial controls and proce-*
20 *dures devised in consultation with, and recommended*
21 *by, an independent certified public accountant and de-*
22 *termined by the Comptroller General as sufficient to*
23 *assure that the financial transactions of National*
24 *Public Radio reflect prudent management practices*

1 *and are accounted for in a manner consistent with gen-*
2 *erally accepted accounting principles;*

3 “(ii) *National Public Radio has adopted a budget*
4 *under which reasonably projected expenditures will not*
5 *exceed reasonably projected revenues from all sources*
6 *for any fiscal year in which such funds are distributed*
7 *to National Public Radio; and*

8 “(iii) *financial reporting systems of National*
9 *Public Radio provide the Corporation with continuous*
10 *access to all financial books and records of National*
11 *Public Radio.*

12 “(B) *Not later than fifteen days after the date of the*
13 *enactment of this paragraph, the Corporation shall report to*
14 *the appropriate committees of the Congress on actions taken*
15 *by National Public Radio to meet the conditions described in*
16 *subparagraph (A) and on actions taken by the Corporation*
17 *with respect to the indebtedness of National Public Radio*
18 *related to deficits accumulated before October 1, 1983. The*
19 *Corporation shall certify to such committees when such con-*
20 *ditions have been met.*

21 “(C) *The requirements of subparagraphs (A) and (B)*
22 *shall cease to be effective on and after the date on which the*
23 *Corporation certifies to the appropriate committees of Con-*
24 *gress that all indebtedness of National Public Radio related*

1 *to deficits accumulated before October 1, 1983, has been liq-*
 2 *uidated in full.”.*

3 *CORPORATION FOR PUBLIC BROADCASTING*

4 *ADMINISTRATIVE MATTERS*

5 *SEC. 6. (a) Section 396(c)(1) of the Communications*
 6 *Act of 1934 (47 U.S.C. 396(c)(1)) is amended—*

7 *(1) in the first sentence, by striking out “, and*
 8 *the President of the Corporation”; and*

9 *(2) by striking out the third sentence.*

10 *(b)(1) Section 396(d)(1) of such Act is amended by in-*
 11 *serting after “annually” the following: “elect one of their*
 12 *members to be Chairman and”.*

13 *(2) The subsection heading for section 396(d) of such*
 14 *Act is amended by striking out “VICE CHAIRMAN” and in-*
 15 *serting in lieu thereof “CHAIRMAN AND VICE CHAIRMAN”.*

16 *(c) Section 396(e)(1) of such Act is amended by striking*
 17 *out “No officer of the Corporation, other than a Vice Chair-*
 18 *man” and inserting in lieu thereof “No officer of the Corpo-*
 19 *ration, other than the Chairman or a Vice Chairman”.*

20 *ADMINISTRATION OF REGIONAL CONCENTRATION RULES*

21 *FOR BROADCAST STATIONS*

22 *SEC. 7. Section 310 of the Communications Act of*
 23 *1934 (47 U.S.C. 310) is amended by adding at the end*
 24 *thereof the following new subsection:*

1 “(e)(1) In the case of any broadcast station, and any
 2 ownership interest therein, which is excluded from the region-
 3 al concentration rules by reason of the savings provision for
 4 existing facilities provided by the First Report and Order
 5 adopted March 9, 1977 (docket No. 20548; 42 Fed. Reg.
 6 16145), the exclusion shall not terminate solely by reason of
 7 changes made in the technical facilities of the station to im-
 8 prove its service.

9 “(2) For purposes of this subsection, the term ‘regional
 10 concentration rules’ means the provisions of sections 73.35,
 11 73.240, and 73.636 of title 47, Code of Federal Regulations
 12 (as in effect June 1, 1983), which prohibit any party from
 13 directly or indirectly owning, operating, or controlling three
 14 broadcast stations in one or several services where any two of
 15 such stations are within one hundred miles of the third
 16 (measured city-to-city), and where there is a primary service
 17 contour overlap of any of the stations”.

18 CLARIFICATION AND ADMINISTRATION OF SECTION 223

19 SEC. 8. (a) Section 223 of the Communications Act of
 20 1934 (47 U.S.C. 223) is amended by inserting “(a)” before
 21 “Whoever” and by adding at the end thereof the following
 22 new subsection:

23 “(b)(1) Whoever—

24 “(A) in the District of Columbia or in interstate
 25 or foreign communication, by means of telephone,

1 *makes (directly or by recording device) any comment,*
2 *request, suggestion, or proposal which is obscene, lewd,*
3 *lascivious, filthy, or indecent, regardless of whether the*
4 *maker of such comment placed the call, or*

5 *“(B) knowingly permits any telephone facility*
6 *under such person’s control to be used for any purpose*
7 *prohibited by subparagraph (A),*

8 *shall be fined not more than \$50,000 or imprisoned not more*
9 *than six months, or both.*

10 *“(2)(A) In addition to the criminal penalties under*
11 *paragraph (1), whoever, in the District of Columbia or in*
12 *interstate or foreign communication, violates paragraph*
13 *(1)(A) or (1)(B) for commercial purposes shall be subject to a*
14 *civil fine of not more than \$50,000 for each violation. For*
15 *purposes of this paragraph, each day of violation shall consti-*
16 *tute a separate violation.*

17 *“(B) A fine under this paragraph may be assessed*
18 *either—*

19 *“(i) by a court, pursuant to a civil action by the*
20 *Commission or any attorney employed by the Commis-*
21 *sion who is designated by the Commission for such*
22 *purpose, or*

23 *“(ii) by the Commission, after appropriate admin-*
24 *istrative proceedings.*

1 “(3)(A) *Either the Attorney General, or the Commis-*
2 *sion or any attorney employed by the Commission who is*
3 *designated by the Commission for such purpose, may bring*
4 *suit in a district court of the United States to enjoin any act*
5 *or practice which allegedly violates paragraph (1)(A) or*
6 *(1)(B).*

7 “(B) *Upon a proper showing that, weighing the equities*
8 *and considering the likelihood of ultimate success, a prelimi-*
9 *nary injunction would be in the public interest, and after*
10 *notice to the defendant, such preliminary injunction may be*
11 *granted. If a full trial on the merits is not scheduled within*
12 *such period (not exceeding twenty days) as may be specified*
13 *by the court after issuance of the preliminary injunction, the*
14 *injunction shall be dissolved by the court.”.*

15 (b) *Section 223(a) of the Communications Act of 1934*
16 *(as redesignated by subsection (a) of this section) is amend-*
17 *ed—*

18 (1) *in paragraph (1), by striking out subpara-*
19 *graph (A) and by redesignating subparagraphs (B),*
20 *(C), and (D) as subparagraphs (A), (B), and (C), re-*
21 *spectively; and*

22 (2) *in paragraph (2), by inserting “facility” after*
23 *“telephone”.*

1 *DIRECTION ON USE OF FUNDS REGARDING SPECTRUM AL-*
2 *LOCATION AND ASSIGNMENTS FOR PUBLIC SAFETY*
3 *PURPOSES*

4 *SEC. 9. (a) Funds authorized to be appropriated under*
5 *section 2 of this Act shall be used by the Federal Communi-*
6 *cations Commission to establish a plan which adequately en-*
7 *sures that the needs of State and local public safety authori-*
8 *ties would be taken into account in making allocations of the*
9 *electromagnetic spectrum. In establishing such a plan the*
10 *Commission shall (1) review the current and future needs of*
11 *such public safety authorities in light of suitable and com-*
12 *mercially available equipment and (2) consider the need for a*
13 *nationwide contiguous frequency allocation for public safety*
14 *purposes.*

15 *(b) Pending adoption of a plan, the Commission, while*
16 *making assignments and allocations, shall duly recognize the*
17 *needs of State and local public safety authorities.*

Union Calendar No. 222

98TH CONGRESS
1ST SESSION

H. R. 2755

[Report No. 98-356]

A BILL

To authorize appropriations for the Federal Communications Commission for fiscal years 1984 and 1985, and for other purposes.

SEPTEMBER 15, 1983

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed